

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, AMENDING SUBSECTION 3.03 (SCHEDULE OF USES) OF SECTION 3 (USE OF LAND AND BUILDINGS) OF ARTICLE II (PERMITTED USES AND DEFINITIONS); AMENDING SUBSECTION 3.04 (CONDITIONAL DEVELOPMENT STANDARDS) OF SECTION 3 (USE OF LAND AND BUILDINGS) OF ARTICLE II (PERMITTED USES AND DEFINITIONS); AMENDING SUBSECTION 4.02 OF SECTION 4 (DEFINITIONS) OF ARTICLE II (PERMITTED USES AND DEFINITIONS); AMENDING SUBSECTION 2.01 (SUP of "S" – SPECIFIC USE PERMITS) OF SECTION 3 (SPECIAL DISTRICTS) OF ARTICLE III (ZONING DISTRICTS); AMENDING PARAGRAPH A (OFF-STREET PARKING REQUIREMENTS) OF SUBSECTION 4.07 (PARKING REQUIREMENTS BASED ON USE) OF SECTION 4 (OFF-STREET PARKING REQUIREMENTS) OF ARTICLE IV (SITE DEVELOPMENT REQUIREMENTS); AMENDING SUBSECTION 11.06 (CIRCULATION AND PARKING REQUIREMENTS) OF SECTION 11 (DESIGN & DEVELOPMENT STANDARDS FOR RETAIL) OF ARTICLE IV (SITE DEVELOPMENT REQUIREMENTS); AMENDING SUBSECTION 5.05 (GENERAL REQUIREMENTS OF TOLLWAY OVERLAY DISTRICT) OF SECTION 3 (SPECIAL DISTRICTS) OF ARTICLE III (ZONING DISTRICTS) OF FRISCO'S COMPREHENSIVE ZONING ORDINANCE NO. 00-11-01; AMENDING REGULATIONS ON BEER AND WINE PACKAGE SALES, RESTAURANT OR CAFETERIA, AND PRIVATE CLUB USES; RENAMING BEER AND WINE PACKAGE SALES TO PACKAGE SALES TO PROVIDE REGULATIONS FOR THE SALE OF LIQUOR IN WET AREAS WITHIN THE CITY, CREATING AN ALCOHOLIC BEVERAGE ESTABLISHMENT USE; PROVIDING DEFINITIONS FOR NEW USES; MAKING OTHER CHANGES SO THAT PRIVATE CLUBS AND ALCOHOLIC BEVERAGE ESTABLISHMENTS ARE TREATED SIMILARLY WITH REGARD TO PARKING; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City Council has invested and determined that it is in the best interest of the citizens of Frisco to amend subsection 3.03 (Schedule of Uses) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses And Definitions); Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Development Standards) of Article II (Permitted Uses and Definitions); Subsection 4.02 of Section 4 (Definitions) Article II (Permitted Uses and Definitions), Subsection 2.01 (SUP of "S" – Specific Use Permits) of Section 3 (Special Districts) of Article III (Zoning Districts); Paragraph A (Off-Street Parking

Requirements) of Subsection 4.07 (Parking Requirements Based on Use) of Section 4 (Off-Street Parking Requirements) of Article IV (Site Development Requirements); Subsection 11.06 (Circulation and Parking Requirements) of Section 11 (Design & Development Standards for Retail) of Article IV (Site Development Requirements); Subsection 5.05 (General Requirements of Tollway Overlay District) of Section 3 (Special Districts) of Article III (Zoning Districts) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. Amending Paragraph 25 (Restaurant or Cafeteria) of Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Paragraph 25 (Restaurant or Cafeteria) Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended to delete Paragraph 25 (Restaurant or Cafeteria) to replace with a new Paragraph 25 as follows:

"25. Restaurant or Cafeteria:

- (a) A Restaurant or Cafeteria is permitted by specific use permit in the NS zoning district and is permitted by right in the R, OTC, O-2, C-1, C-2, CO, H, IT, and I zoning districts.
- (b) Except as otherwise provided, restaurants with drive-through are permitted in any zoning district where a Restaurant or Cafeteria is permitted. Restaurants with drive-through are not permitted in the O-2 zoning district and are only permitted in the Preston Road Overlay District subject to the conditional standards in Article III, Section 2 (4.05) B.
- (c) Restaurants or Cafeterias that sell alcohol shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended and any applicable local option elections.

- (d) Except along Main Street in the OTC zoning district, a Restaurant or Cafeteria that sells alcohol shall not be located within the following:
 - A. Three hundred (300) feet from a church, public hospital, and/or public school.
 - B. One thousand (1000) feet from a public school if the City Council receives a request for this additional spacing requirement from the school district, and the City Council adopts such additional spacing requirements by resolution.
- (e) Measurement for the distance between a Restaurant or Cafeteria where alcohol beverages are sold and a church or public hospital shall be along the property lines of the street fronts, from front door to front door, and in a direct line across intersections.
- (f) Measurement for the distance between a Restaurant or Cafeteria where alcoholic beverages are sold and a public school shall be:
 - A. In a direct line from the property line of the public school to the property line of the place of business, and in a direct line across intersections; or
 - B. If the restaurant that sells alcohol is located on or above the fifth story of a multistory building, in a direct line from the property line of the public school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the Restaurant or Cafeteria is located.
- (g) If a Restaurant or Cafeteria receives seventy-five percent (75%) or more of its gross revenue on a quarterly basis from the sale or service of alcoholic beverages for on-premise consumption, the use will no longer qualify as a Restaurant or Cafeteria and will be classified and regulated by the City as an alcoholic beverage establishment under the Frisco Comprehensive Zoning Ordinance.”

SECTION 3. Amending the Restaurant or Cafeteria use listed in Section 3.03 (G) (Service Uses) of Article II (Permitted Uses and Definitions) of Frisco’s Comprehensive

Zoning Ordinance No. 00-11-01. The Restaurant or Cafeteria use shown in the Schedule of Uses in Subsection 3.03(G) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended so that all references to a corresponding numeric end note in Article II, Section 3.04 shall only refer to the Paragraph 25 (Restaurant or Cafeteria) adopted under this Ordinance, as depicted in Exhibit A, which is attached to and made a part of this Ordinance.

SECTION 4. Amending Subsection 4.02 of Section 4 (Definitions) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Subsection 4.02 of Section 4 (Definitions) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, is hereby amended to add the following definition:

“Alcoholic Beverage Establishment means any establishment that derives seventy-five percent (75%) or more of its gross revenue on a quarterly basis from the sale or service of alcoholic beverages, as defined in the Texas Alcoholic Beverage Code, as amended, for on-premise consumption.”

SECTION 5. Amending Paragraph 26 (Restaurant or Cafeteria) of Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Paragraph 26 (Restaurant or Cafeteria) of Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended to read as follows:

“26. Alcoholic Beverage Establishment

- (a) Alcoholic Beverage Establishments shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended and any applicable local option elections.
- (b) An Alcoholic Beverage Establishment is permitted only by specific use permit in R, OTC, O-2, C-1, C-2, CO, H, IT, and I zoning districts.
- (c) An Alcoholic Beverage Establishment shall not be located within:

- A. Eight Hundred (800) feet from a church, public hospital, public school, private school, and/or residential zoning district. For this purpose, residential zoning districts shall include, but is not limited to, properties that are zoned Neighborhood Service and residential Planned Development Districts.
 - B. One Thousand (1000) feet from a public school if the City Council receives a request for this additional spacing requirement from the school district, and the City Council adopts such additional spacing requirements by resolution; and
 - C. One Thousand (1000) feet from a private school if the City Council receives a request for this additional spacing requirement from the board of the private school, and the City Council adopts the additional spacing requirements by resolution.
- (d) Measurement for the distance between an Alcoholic Beverage Establishment and the uses listed above or the nearest residential zoning district shall be in a straight line from the nearest property line of the lot where the Alcoholic Beverage Establishment is located, without regard to intervening structures or objects, to the nearest property line of the lot where the church, public hospital, public school, and/or private school is located.
- (e) If a use were operating as a private club in accordance with Frisco's Comprehensive Zoning Ordinance and pursuant to a valid specific use permit before [INSERT DATE THIS ORDINANCE IS ADOPTED BY COUNCIL], and now only qualifies as an Alcoholic Beverage Establishment, the use shall be reclassified as an Alcoholic Beverage Establishment, the SUP shall be treated as if it were originally issued for an Alcoholic Beverage Establishment, and if the use fails to comply with the new regulations set forth in this Paragraph, that Alcoholic Beverage Establishment shall be allowed to continue operating in the same location, subject to the continued rights of the City Council to terminate the use's specific use permit, in accordance with the law."

SECTION 6. Amending the Schedule of Uses in Section 3.03 (G) (Service Uses) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance

No. 00-11-01. The Schedule of Uses in Section 3.03(G) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended to include Alcoholic Beverage Establishment as shown on Exhibit A, which is attached to and made a part of this Ordinance.

SECTION 7. Amending Paragraph 32 (Restaurant or Cafeteria) of Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance

No. 00-11-01. Paragraph 32 (Restaurant or Cafeteria) of Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended to read as follows:

"32. Private Club

- (a) Private Clubs shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended and any applicable local option elections.
- (b) A Private Club is permitted only by specific use permit in R, OTC, O-2, C-1, C-2, CO, H, IT, and I zoning districts.
- (c) A Private Club shall not be located within:
 - A. Eight hundred (800) feet from a church, public hospital, public school, private school, and/or residential zoning district. For this purpose, residential zoning districts shall include, but are not limited to, properties that are zoned Neighborhood Service and residential Planned Development Districts.
 - B. One Thousand (1000) feet from a public school if the City Council receives a request for this additional spacing requirement from the school district, and the City Council adopts such additional spacing requirements by resolution; and

C. One Thousand (1000) feet from a private school if the City Council receives a request for this additional spacing requirement from the board of the private school, and the City Council adopts the additional spacing requirements by resolution.

(d) Measurement for the distance between a Private Club and the uses listed above or the nearest residential zoning district shall be in a straight line from the nearest property line of the lot where the alcoholic beverage establishment is located, without regard to intervening structures or objects, to the nearest property line of the lot where the church, public hospital, public school, and/or private school is located.”

SECTION 8. Amending the definition of Private Club in Subsection 4.02 of Section 4 (Definitions) of Article II (Permitted Uses and Definitions) of Frisco’s Comprehensive Zoning Ordinance No. 00-11-01. The definition of Private Club in Subsection 4.02 of Section 4 (Definitions) of Article II (Permitted Uses and Definitions) of Frisco’s Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended to add the following definition of Alcoholic Beverage Establishment:

“Private Club – an establishment holding a Private Club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code, as amended, that derives thirty-five percent (35%) or more of its gross revenue from the sale or service of alcoholic beverages for on-premise consumption and that is located within a dry area as defined in Title 6 (Local Option Elections) of the Texas Alcoholic Beverage Code, as amended. Private Club does not include a fraternal or veteran’s organization, as defined in the Texas Alcoholic Beverage Code, as amended, holding a private club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code. A Private Club does not include the holder of a food and beverage certificate, as defined in the Texas Alcoholic Beverage Code, as amended. Unless the person owning or operating the use supplies the building official with records to prove otherwise, an establishment holding a Private Club permit under Chapter 32 or 33 of the Texas Alcoholic Beverage Code, as amended, is presumed to derive thirty-five percent (35%) or more of its gross revenue from the sale or service of alcoholic beverages for on-premise consumption.”

SECTION 9. Amending the Private Club use provided for in Section 3.03 (G) (Service Uses) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. The Private Club use in Subsection 3.03(G) (Service Uses) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended so that Private Club regulations reference Subsection 32 adopted by this Ordinance as the corresponding numeric end note in Article II, Section 3.04, as shown on Exhibit A, which is attached to and made a part of this Ordinance.

SECTION 10. Amending Paragraph 31 (Beer and Wine Package Sales) of Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Paragraph 31 (Beer and Wine Package Sales) of Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, is hereby amended to read as follows:

"31. Package Sales:

- (a) A Package Sales establishment shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.
- (b) A Package Sales establishment is permitted only in the R, H, C-1, and C-2 zoning districts.
- (c) Beer sales are not permitted in residential zoning districts.
- (d) In the OTC zoning district:
 - A. Package Sales establishments are only permitted in the OTC zoning district, between North and South County Road and the BNSF Rail Line;
 - B. Only two (2) Package Sales establishments may be located in the OTC, and only one (1) Package Sales establishment may be located on any given block.
- (e) A Package Sales establishment shall not be located within the following:
 - A. Three hundred (300) feet from a church, public hospital, public school, and/or private school. But, a Package Sales establishment

may be located within three hundred (300) feet of a private school if minors are prohibited from entering the package store.

- B. One thousand (1000) feet from a public school if the City Council receives a request for this additional spacing requirement from the school district, and the City Council adopts such additional spacing requirements by resolution.
- C. One thousand (1000) feet from a private school if the City Council receives a request for this additional spacing requirement from the board of the private school, and the City Council adopts the additional spacing requirements by resolution. But, the City Council may not adopt this additional spacing required if minors are prohibited from entering the Package Sales establishment.

(f) Measurement of the distance between the Package Sales establishment and the church or public hospital shall be along the property lines of the street fronts, from front door to front door, and in a direct line across intersections. Measurement for the distance between the Package Sales establishment and a public or private school shall be:

- A. In a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- B. If the Package Sales establishment is located on or above the fifth (5th) story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the Package Sales establishment is located.”

SECTION 11: ~~Deleting Paragraph 40 of Subsection 3.04 (Conditional Development Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco’s Comprehensive Zoning Ordinance No. 00-11-01.~~
Paragraph 40 (Beer and Wine Package Sales) of Subsection 3.04 (Conditional Development

Standards) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, is hereby deleted.

SECTION 12. Amending Subsection 4.02 of Section 4 (Definitions) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Subsection 4.02 of Section 4 (Definitions) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, is hereby amended to delete the definition of Beer and Wine Package Sales and add the following definition of Package Sales establishment:

"Package Sales - An establishment principally for the retail sale of alcoholic beverages, as defined in the Texas Alcoholic Beverage Code, as amended, to the general public for off-premise consumption and rendering services that are incidental to the sale of such goods."

SECTION 13. Amending the Schedule of Uses in Subsection 3.03(F) (Retail Uses) of Section 3 (Use of Land and Buildings) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. The Schedule of Uses in Subsection 3.03(F)(Retail Uses) of Section 3 (Use of Land and Building) of Article II (Permitted Uses and Definitions) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, is hereby amended so that all references to a corresponding numeric end note in Article II, Section 3.04 shall refer to the Paragraph 26 (Package Sales) adopted under this Ordinance, as shown in Exhibit A, which is attached to and made a part of this Ordinance.

SECTION 14. Amending Paragraph A (Off-street Parking Requirements) of Subsection 4.07 (Parking Requirements Based on Use) of Section 4 (Off-Street Parking and Loading Requirements) of Article IV (Site Development Requirements) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Paragraph A (Off-street Parking Requirements) of Subsection 4.07 (Parking Requirements Based on Use) of Section 4 (Off-Street Parking Requirements) of Article IV (Site Development Requirements) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended to add the following parking requirements for alcoholic beverage establishments:

"Alcoholic Beverage Establishments: One (1) parking space for each seventy-five (75) square feet of gross floor area."

SECTION 15. Deleting Subsection 2.04 (Specific Use Permit For Private Clubs) of Section 2 (Special Districts) of Article III (Zoning Districts) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Subsection 2.04 (Specific Use Permit for Private Clubs) of Section 2 (Special Districts) of Article III (Zoning Districts) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, is hereby deleted in its entirety and the Subsection shall remain as "[Reserved]."

SECTION 16. Amending Paragraph I of Subsection 11.06 (Circulation and Parking Requirements) of Section 11 (Design & Development Standards for Retail) of Article IV (Site Development Requirements) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Paragraph I of Subsection 11.06 (Circulation and Parking Requirements) of Section 11 (Design & Development Standards for Retail) of Article IV (Site Development Requirements) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, is hereby amended to read as follows:

"I. Main building in-line restaurants may reduce their parking from one (1) space per one hundred (100) square feet of floor area to one (1) space per two hundred (200) square feet of floor area. This reduction is available for up to ten percent (10%) of the main building's total floor area. This reduction is not available to Private Clubs and/or Alcoholic Beverage Establishments."

SECTION 17 Amending Subparagraph 6 of Paragraph F (Parking) of Subsection 5.05 (General Requirements of the Tollway Overlay District) of Section 3 (Special Districts) of Article III (Zoning Districts) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Subparagraph 6 of Paragraph F (Parking) of Subsection 5.05 (General Requirements of the Tollway Overlay District) of Section 3 (Special Districts) of Article III (Zoning Districts) of Frisco's Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended to read as follows:

"6. Main building in-line restaurants may reduce their parking from one (1) space per one hundred (100) square feet of floor area to one (1) space per two hundred (200) square feet of floor area. This reduction is available for up to ten percent (10%) of the main building's total floor area. This reduction is not available to Private Clubs and/or Alcoholic Beverage Establishments."

SECTION 18: Penalty Provision. Any person, firm, corporation or entity violating this Ordinance or any provision of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Two Thousand and 00/100 Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 19: Savings/Repealing Clause. Frisco's Comprehensive Zoning Ordinance No. 00-11-01 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

SECTION 20: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 21. Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by law the City Charter and by law.


DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, on this _____ day of _____, 2009.

Maher Maso, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**

Jenny Page, City Secretary

APPROVED AS TO FORM:



Abernathy Roeder Boyd & Joplin P.C.
Claire E. Swann, City Attorneys

Date(s) of Publication: _____, Frisco Enterprise